

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<b>DIMAS LOPEZ, et al.,</b>	)	
	)	
<b>Plaintiffs,</b>	)	<b>8:06CV459</b>
	)	
<b>vs.</b>	)	<b>ORDER</b>
	)	
<b>TYSON FOODS, INC.,</b>	)	
	)	
<b>Defendant.</b>	)	

This matter is before the court following a telephone planning conference with counsel on September 18, 2009. The plaintiffs were represented by Brian P. McCafferty and Michael Hamilton. The defendant was represented by Allison D. Balus, Evangeline C. Paschal, and Michael J. Mueller. The plaintiffs' counsel reported the number of consents received by the Administrator. The parties agreed the close of the class period was September 14, 2009. Accordingly,

**IT IS ORDERED:**

1. The plaintiffs shall cause all consents to be filed **on or before September 24, 2009.**
2. All discovery, including expert discovery, shall be completed **on or before June 15, 2010.**
3. **On or before March 16, 2010,** all parties shall disclose:
  - a. The names, addresses and affiliations with any party of all non-expert witnesses; and
  - b. The names and addresses of all expert witnesses expected to testify for that party at trial.
4. **On or before April 15, 2010,** the parties shall disclose the reports of any expert witnesses that they may use at trial pursuant to Fed. R. Civ. P. 26(a)(2)(B). Pursuant to Fed. R. Civ. P. 26(a)(4), the parties shall make any disclosed expert witness available for deposition before the close of discovery.

5. Any motion seeking to decertify the conditionally certified rule 216(b) collective-action class shall be filed **on or before July 15, 2010**. The opposition to such decertification motion shall be filed **within 20 calendar days of the filing of the motion that is being opposed**. Replies in support of a motion to decertify the conditionally certified rule 216(b) collective-action class shall be filed **within 10 days of the filing of any opposition**.

6. Dispositive motions can be filed **at any time, but in no event later than July 15, 2010**. Oppositions to any dispositive motion shall be filed **within 20 days of the filing of the motion**. Replies in support of dispositive motions shall be filed **within 10 days of the filing of any opposition**.

7. **Motions in Limine.** Any motion *in limine* challenging the admissibility of testimony of an expert witness under Rule 702, Fed. Rules of Evidence shall be filed not later than **August 6, 2010**, in the absence of which any objection based upon said rule shall be deemed waived. **See *Kumho Tire Co., Ltd. v. Carmichael*, 526 U.S. 137 (1999); *Daubert v. Merrell Dow Pharmaceuticals*, 509 U.S. 579 (1993).**

8. Should no dispositive motions be filed nor any motions *in limine* challenging the admissibility of testimony of an expert witness, a telephone conference with the undersigned magistrate judge will be held on **August 16, 2010, at 11:00 a.m. Central Daylight Time** to discuss the status of the case and to reschedule the pretrial conference and trial set forth below. **Plaintiffs' counsel shall initiate the call.**

9. **Pretrial Disclosures.** Pursuant to Fed. R. Civ. P. 26(a)(3), each party provide to all other parties the following information regarding the evidence it may present at trial other than solely for impeachment purposes as soon as practicable **but not later than the date specified:**

a. **Trial Witnesses - On or before November 29, 2010.** The name, address and telephone number of each witness, separately identifying those whom the party expects to present and those whom the party may call if the need arises.

**b. Deposition Testimony and Discovery - On or before November 29, 2010.** 1) The portions of each deposition, designated by page and line, that it intends to offer and 2) each discovery response of another party it intends to offer.

**c. Trial Exhibits - On or before November 29, 2010.** A list of all exhibits it expects to offer by providing a numbered listing and permitting examination of such exhibits, designating on the list those exhibits it may offer only if the need arises.

**d. Waiver of Objections:** Any and all objections to the use of the witnesses, deposition designations, discovery responses, or exhibits shall be listed in the pretrial order. Failure to list objections (except those under Fed. R. Evid. 402 and 403) shall be deemed waived, unless excused by the court for good cause shown.

10. **The Final Pretrial Conference** with the undersigned magistrate judge is set for **December 10, 2010, at 9:00 a.m.** in chambers, Suite 2271, Roman L. Hruska United States Courthouse, 111 South 18th Plaza, Omaha, Nebraska. The final pretrial conference shall be attended by lead counsel for represented parties. Counsel shall complete prior to the pretrial conference, all items as directed in NECivR 16.2. By the time of the pretrial conference, full preparation for trial shall have been made so that trial may begin at any time during the session indicated below.

11. **Trial** is set to commence **at 8:30 a.m. on January 24, 2011**, in Omaha, Nebraska, before the Honorable Joseph F. Bataillon and a jury.

12. **Motions to alter dates.** All requests for changes of date settings shall be directed to the undersigned magistrate judge by appropriate motion.

DATED this 21st day of September, 2009.

BY THE COURT:

s/Thomas D. Thalken  
United States Magistrate Judge